

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF MASSACHUSETTS,  
STATE OF COLORADO, STATE OF  
CONNECTICUT, STATE OF DELAWARE,  
DISTRICT OF COLUMBIA, STATE OF  
ILLINOIS, STATE OF MARYLAND, STATE  
OF MICHIGAN, STATE OF MINNESOTA,  
STATE OF NEVADA, STATE OF NEW  
JERSEY, STATE OF NEW MEXICO, STATE  
OF OREGON, COMMONWEALTH OF  
PENNSYLVANIA, STATE OF RHODE  
ISLAND, STATE OF VERMONT,  
COMMONWEALTH OF VIRGINIA, and  
STATE OF WISCONSIN,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY; CHAD F. WOLF, in  
his official capacity as Acting Secretary of  
Homeland Security; U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT; and MATTHEW  
T. ALBENCE, in his official capacity as Acting  
Director of U.S. Immigration and Customs  
Enforcement,

*Defendants.*

Civil Action No. 20-11311

**REQUEST FOR ORAL ARGUMENT**

**PLAINTIFF STATES' MOTION FOR  
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. P. 65(a), Plaintiffs ("States") move for the issuance of a temporary restraining order and/or preliminary injunction enjoining the Defendants from implementing or enforcing the policy announced in the July 6, 2020 Broadcast Message ("July 6

Directive”) issued by the United States Immigration and Customs Enforcement regarding the Student and Exchange Visitor Program.<sup>1</sup>

As grounds for this Motion, the States rely on the accompanying declarations listed on Exhibit A attached to this Motion, their Complaint, and Memorandum of Law in Support of their Motion for Temporary Restraining Order and Preliminary Injunction. In addition, for the convenience of the Court and for consistency with the related case *President and Fellows of Harvard College v. U.S. Department of Homeland Security*, No. 1:20-cv-11283-ADB, the Plaintiffs rely on the Proposed Preliminary Injunction Order submitted by the plaintiffs in that matter, ECF Doc. 30-1, filed July 10, 2020.

In support of this Motion, the States state as follows. The Court should enter a temporary restraining order and/or preliminary injunction enjoining the Defendants from implementing or enforcing the July 6 Directive because the States are likely to succeed on the merits of their claims; because the States will suffer irreparable harm if the requested relief is not granted; and because the balance of harms as well as the public interest both powerfully favor granting the requested relief.

The States are likely to succeed on the merits of their claims that the Directive was arbitrary and capricious, because it failed to offer a reason for its reversal of prior policy; failed to consider the substantial reliance interests of universities and foreign students on the agency’s prior guidance and the harms this abrupt reversal will cause; failed to consider—or outright disregarded—the evidence that the COVID-19 emergency is continuing unabated; and required immediate compliance without affording schools and their students sufficient time to alter plans

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<sup>1</sup> Student and Exchange Visitor Program, Broadcast Message: COVID-19 and Fall 2020, at 1 (July 6, 2020), <https://www.ice.gov/doclib/sevis/pdf/bcm2007-01.pdf>.

made in reliance on prior policy. Moreover, the Directive was adopted without proper procedure.

The States will suffer irreparable harm absent the requested injunction, in the form of harms to their proprietary interests (including costs of increasing in-person instruction, costs of losing international students, administrative costs, and costs to their institutions' educational missions); harms to their sovereign interests (including their interest in regulating their public colleges and universities to ensure public health and safety, and their interest in preserving their flexibility to respond to evolving health and safety conditions); and harms to their quasi-sovereign interests in the health and economic welfare of their residents. For similar reasons, the balance of harms as well as the public interest both powerfully favor granting the requested injunction.

Wherefore, the States ask the Court to enter an order in the form of the Proposed Preliminary Injunction Order submitted by Plaintiffs in the related matter *President and Fellows of Harvard College v. U.S. Department of Homeland Security*, No. 1:20-cv-11283-ADB, ECF Doc. 30-1, filed July 10, 2020. The States request a hearing at the Court's earliest convenience and are available at 3pm on Tuesday, July 14, 2020.

Date: July 13, 2020

Respectfully submitted,

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*\*Pro hac vice* motions will be forthcoming.

**RULE 7.1 CERTIFICATE**

I, Abigail B. Taylor, hereby certify that counsel for the Plaintiffs provided notice of the foregoing motion to counsel for the Defendants by email on July 12, 2020 and attempted to confer in good faith in an effort to resolve or narrow the issues.

/s/ Abigail B. Taylor



**CERTIFICATE OF SERVICE**

I, Abigail B. Taylor, counsel for Plaintiffs, hereby certify that this document has been filed through the Court's ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). On July 13, 2020, this document was delivered by hand and by email to:

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and was sent by certified mail to the following:

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The Hon. Chad F. Wolf  
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